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14 Defendant SHAKEY'S PIZZA ASIA  
15 VENTURES, INC. and Third Party Defendants  
16 CINCO CORPORATION, PC  
17 INTERNATIONAL PTE LTD., and SPAVI  
18 INTERNATIONAL USA, INC.

19 **UNITED STATES DISTRICT COURT**  
20 **CENTRAL DISTRICT OF CALIFORNIA**

21 SHAKEY'S PIZZA ASIA VENTURES,  
22 INC, a Philippines corporation,

23 Plaintiff,

24 v.

25 PCJV USA, LLC, a Delaware limited  
26 liability company; PCI TRADING,  
27 LLC, a Delaware limited liability  
company; GUY KOREN, an individual;  
28 POTATO CORNER LA GROUP, LLC,  
a California limited liability company;  
NKM CAPITAL GROUP, LLC, a  
California limited liability company;  
J & K AMERICANA, LLC, a California  
limited liability company; J&K  
LAKEWOOD, LLC, a California  
limited liability company; J&K  
VALLEY FAIR, LLC, a California  
limited liability company; J & K  
ONTARIO, LLC, a California limited  
liability company; HLK MILPITAS,  
LLC, a California, limited liability  
company; GK CERRITOS, LLC, a

Case No. 2:24-CV-04546-SB(AGRx)

*The Hon. Stanley Blumenfeld, Jr.*

**PLAINTIFF SHAKEY'S PIZZA  
ASIAN VENTURES, INC.'S  
MOTION IN LIMINE NO. ONE  
TO PROHIBIT INTRODUCTION  
OF EVIDENCE, TESTIMONY,  
OR ARGUMENT THAT ANYONE  
OTHER THAN PLAINTIFF  
OWNS THE REGISTERED  
TRADEMARKS AT ISSUE**

Complaint Filed: May 31, 2024  
Trial Date: August 18, 2025

1 California, limited liability company;  
2 J&K PC TRUCKS, LLC, a California  
3 limited liability company; and, GK  
4 CAPITAL GROUP, LLC, a California  
limited liability company and DOES 1  
through 100, inclusive,

5 Defendants.

6 PCJV USA, LLC, a Delaware limited  
7 liability company; PCI TRADING LLC,  
8 a Delaware limited liability company;  
POTATO CORNER LA GROUP LLC,  
9 a California limited liability company;  
GK CAPITAL GROUP, LLC, a  
California limited liability company;  
NKM CAPITAL GROUP LLC, a  
10 California limited liability company; and  
GUY KOREN, an individual,

11 Counter-Claimants,

12 v.

13 SHAKEY'S PIZZA ASIA VENTURES,  
14 INC, a Philippines corporation,

15 Counter Defendant.

16 PCJV USA, LLC, a Delaware limited  
17 liability company; PCI TRADING LLC,  
18 a Delaware limited liability company;  
POTATO CORNER LA GROUP LLC,  
19 a California limited liability company;  
GK CAPITAL GROUP, LLC, a  
California limited liability company;  
NKM CAPITAL GROUP LLC, a  
20 California limited liability company; and  
GUY KOREN, an individual,

22 Third Party Plaintiffs,

23 v.

24 PC INTERNATIONAL PTE LTD., a  
Singapore business entity; SPAVI  
25 INTERNATIONAL USA, INC., a  
California corporation; CINCO  
26 CORPORATION, a Philippines  
corporation; and DOES 1 through 10,  
27 inclusive,

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1                   Third Party Defendants.  
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1 **TO THE COURT AND ALL PARTIES OF RECORD:**

2 PLEASE TAKE NOTICE that, on August 8, 2025 at 10:00 a.m., in  
3 Courtroom 6C of the United States District Court for the Central District of  
4 California, located at 350 West 1st Street, Los Angeles, California 90012, Plaintiff  
5 and Counterclaim Defendant SHAKEY'S PIZZA ASIA VENTURES, INC.  
6 ("SPAVID") and Third Party Defendants CINCO CORPORATION ("Cinco"), PC  
7 INTERNATIONAL PTE LTD. ("PCI"), and SPAVI INTERNATIONAL USA,  
8 INC ("SPAVID International," and collectively with SPAVID, Cinco, and PCI, the  
9 "SPAVID Parties") move to:

- 10 **• Prohibit introduction of evidence, testimony, or argument that  
11 anyone other than Plaintiff owns the registered trademarks at  
12 issue.**

13 This Motion is made pursuant to Federal Rules of Evidence 402 and 403 and  
14 the Civil Pretrial and Trial Order (Dkt. No. 30 at 9-11) and is based upon this  
15 Notice of Motion and Motion, the following memorandum of points and authorities  
16 filed concurrently herewith, along with the Declaration of Michael D. Murphy,  
17 [Proposed] Order, and all papers and pleadings filed by the parties herein, all papers  
18 lodged with the Court, any other oral or documentary evidence presented, and on  
19 such other matters as the Court may consider at the hearing on this Motion.

20 Pursuant to Local Rule 7-3, the parties met and conferred on June 20, 2025,  
21 and again on July 14, 2025, and were unable to resolve the present dispute.

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23  
24 Dated: July 14, 2025

**FOX ROTHSCHILD LLP**

/s/ Michael D. Murphy

25 Michael D. Murphy  
26 Attorneys for Plaintiff and Counterclaim  
27 Defendant SHAKEY'S PIZZA ASIA  
VENTURES, INC. and Third Party  
Defendants CINCO CORPORATION,  
PC INTERNATIONAL PTE LTD., and  
SPAVID INTERNATIONAL USA, INC.

**Statement Pursuant to Civil Pretrial Order**

**The SPAVI Parties<sup>1</sup> seek to preclude any evidence, testimony, or argument that anyone other than Plaintiff owns the registered trademarks at issue.**

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION AND RELEVANT BACKGROUND

This case pertains to holdover licensee, Defendant PCJV USA, LLC (“Defendant PCJV”), who, prior to May 31, 2024 was the implied licensee of the Potato Corner Brand, which includes three trademarks registered with the USPTO, and for which the date of first use was 2009.

The initial registrant of the Marks was Third-Party Defendant Cinco Corporation, which was also identified as the first user on the dates identified in the registrations. In 2022, Third Party Cinco sold the PC Brand, to Plaintiff. Deeds were filed with the USPTO unequivocally transferring all rights and good will in the Marks to Plaintiff. The Buyer and the Seller (Cinco and SPAVI), both confirm the Deed is accurate and the sale occurred, and that SPAVI is the sole owner.

This is conclusive evidence of ownership. Nevertheless, Defendants wish to confuse the jury with evidence they claim raises “questions” as to ownership.

## II. RELEVANT FACTUAL BACKGROUND

**A. The Highest and Best Evidence of Ownership is Already in the Record and Points to Plaintiff as the Owner.**

1. The First use of the Marks in the United States is by CINCO.

Potato Corner was first opened as a food cart in the “SM Megamall” in Mandaluyong, Philippines by Jose Magsaysay and three business partners. (Declaration of Jose Magsaysay Jr. ISO Plaintiff’s Motion for Preliminary Injunction (“Magsaysay Decl.”), Dkt 44-3 at ¶¶ 3-5.) In 1993, Mr. Magsaysay founded Quattro

<sup>1</sup> “SPAVI Parties” refers to SHAKEY’S PIZZA ASIA VENTURES, INC. (“SPAVI”) and Third-Party Defendants.

1 Food and Resources, Inc. (“Quattro”), a corporation incorporated in the Philippines,  
2 for the purpose of owning the Potato Corner Intellectual Property (“PC-IP”),  
3 including the Marks. (Magsaysay Decl.”), Dkt 44-3 at ¶¶ 3-5, 13-16.) As of 2008  
4 and 2009, the owner was Third-Party Defendant Cinco. (Magsaysay Decl., Dkt 44-3  
5 at ¶¶ 7-9.)

6 On March 26, 2007, the Logo Mark was registered by Cinco in the Philippines.  
7 (*Id.* at 13.)

8 In April of 2009, Defendant NKM Capital Group, LLC (“NKM Capital”) and  
9 Cinco, entered into a licensing agreement where Cinco would license the Potato  
10 Corner intellectual property to NKM Capital, which would then expand the brand  
11 within Los Angeles. (Masgsaysay Decl., Dkt 44-3 at ¶¶ 23-25.) Nevertheless, shortly  
12 after the execution of the April 2009 License Agreement, the structure changed such  
13 that Cinco’s subsidiary Potato Corner International, would join as 60% owner of  
14 PCJV with Defendant Guy Koren, and franchise Potato Corner through this manner.  
15 (Masgsaysay Decl., Dkt 44-3 at ¶¶ 23-25.)

16 It was during this period that the Marks were registered – Defendants were  
17 licensees of the PC-IP through NKM and a separate licensee of Cinco had already  
18 begun using the Marks at the Tanforan Mall in San Bruno. (*Id.* at ¶ 26.)

19 Defendants do not dispute any of these facts. (*See also* Declaration of Maria  
20 Ybanez ISO of Plaintiff’s Motion for Preliminary Injunction; Dkt. 44-2, ¶¶ 2-6); Dkt.  
21 44-10, 12, and 14 (the Mark Registrations).)

22 **2. CINCO Sells the Potato Corner Brand to SPAVI, and with it  
23 ALL Rights to the Potato Corner Intellectual Property.**

24 On or around March 5, 2022, Cinco and its affiliates closed on a sale of the  
25 Potato Corner Intellectual Property to SPAVI (the “SPAVI Potato Corner  
26 Acquisition”). (Ybanez Decl., Dkt. 44-2, ¶¶ 4-5; Dkt 44-13 and 15 (the Deeds); see  
27 also ¶ 6 describing the scope of the sale).) As documented in two unequivocal deeds  
28 filed by SPAVI with the USPTO, SPAVI acquired the entirety of the Potato Corner

1 brand from Cinco Corporation (“Cinco”), including the Marks. As a result of the  
2 SPAVI Potato Corner Acquisition, the Potato Corner Intellectual Property, that was  
3 included in the sale to SPAVI, included all three trademarks currently registered with  
4 the USPTO. These, as detailed above, include – (1) the Potato Corner Logo Mark,  
5 (2) the Potato Corner Standard Characters Mark, and (3) the World’s Best Flavored  
6 French Fries Mark. (Dkt. 44-2).

7 **III. LEGAL ARGUMENT**

8 **A. Any Introduction of Evidence Claiming Ownership Of Potato  
9 Corner Should be Excluded Under FRE 402**

10 There is no admissible evidence to support a claim of ownership by  
11 Defendants. The Federal Rules of Evidence make clear that only relevant evidence  
12 is admissible at trial; “[i]rrelevant evidence is not admissible.” Fed. R. Evid. 402  
13 (emphasis added). *See also U.S. v. Kosmisaruk*, 885 F.2d 490, 493-94 (9th Cir.  
14 1989) (recognizing, a court may exclude irrelevant evidence from presentation to  
15 the jury); *Bennion and Deville Fine Homes Inc. v. Windermere Real Estate Servs.*  
16 Co., 2018 WL 4810743, at \*2 (C.D. Cal. June 21, 2018) (holding only relevant  
17 evidence is admissible).

18 Evidence is relevant only if “it has any tendency to make a fact more or less  
19 probable than it would be without the evidence” and that fact “is of consequence in  
20 determining the action.” Fed. R. Evid. 401; *Bennion and Deville Fine Homes*, 2018  
21 WL 4810743, at \*2. The party seeking to introduce evidence, bears the burden of  
22 establishing its relevance. *Dowling v. U.S.*, 493 U.S. 342, 360 n.3 (1990). However,  
23 even if evidence is relevant the court may still exclude it if its probative value is  
24 substantially outweighed by a danger of one or more of the following: confusing  
25 the issues, misleading the jury, wasting time, or needlessly presenting cumulative  
26 evidence.” Fed. R. Evid. 403.

27 Here, there is superior evidence of the sale already in the record, which is  
28 conclusive proof that SPAVI is the owner of the marks. Any proffer of evidence

1 that anyone other than Plaintiff is the owner of the Potato Corner brand is irrelevant  
2 and will only confuse the jury and waste time.

3 First, the merger rule found in every state Plaintiff has examined states "[i]f  
4 the language of a deed is plain, certain, and unambiguous, neither parol evidence  
5 nor surrounding facts and circumstances will be considered to add to, detract from,  
6 or vary its terms or to determine the estate conveyed." *See, e.g., Palos Verdes*  
7 *Corp. v. Hous. Auth. of Los Angeles Cnty.*, 202 Cal. App. 2d 827, 836 (1962). The  
8 merger doctrine applies, obviously to purchases of intellectual property as well.  
9 *See, generally, B. F. Goodrich Co. v. A. T. I. Caribe, Inc.*, 366 F. Supp. 464, 467 (D.  
10 Del. 1973). As such, the clear and unambiguous deed is evidence of ownership of  
11 the intellectual property rights and any offer of evidence to the contrary is irrelevant  
12 and inadmissible as violative of the merger doctrine.

13 Second, Defendant was not a party to the transaction, and therefore, it cannot  
14 challenge the deed or representations contained therein. *See Imperial Residential*  
15 *Design, Inc. v. Palms Dev. Grp., Inc.*, 70 F.3d 96, 99 (11th Cir. 1995) (agreeing  
16 that "that, where there is no dispute between the copyright owner and the transferee  
17 about the status of the copyright, it would be unusual and unwarranted to permit a  
18 third-party infringer to invoke [the requirement of a writing memorializing the  
19 status] to avoid suit for copyright infringement.")

20 Third, the licensee estoppel doctrine applies. The doctrine provides that  
21 PCJV as "a licensee [] of a trademark or trade name may not set up any adverse  
22 claim in it as against its licensor." *Pac. Supply Co-op. v. Farmers Union Cent.*  
23 *Exch. Inc.*, 318 F.2d 894, 908 (9th Cir. 1963).

24 Under each of the three reasons above, any evidence or argument that  
25 Plaintiff is not the owner of the registered trademarks at issue would be irrelevant  
26 and would only be offered for the purposes of wasting time and would invite the  
27 jury to reconsider something already considered.

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1           **B. Defendants Should be Prevented from Attempting to Contradict**  
2           **Statutory and Decisional Law.**

3           There is no question that the first date of use was by a Cinco licensee. Koren  
4           claims it was him, and therefore, PCJV was the first to use. This Court, citing one  
5           of Defendants' cases and the Lanham Act rejected this theory as being contrary to  
6           the written and statutory law. (Dkt 56 at p. 9 and 20 *citing Kabushiki Kaisha*  
7           *Megahouse v. Anjar Co. LLC*, No. 2:14-CV-00598-CAS, 2014 WL 5456523, at \*5  
8           (C.D. Cal. Oct. 20, 2014); 15 U.S.C. § 1055.).)

9           If not allowed to do it to this Court, then Defendants most certainly should  
10          not be allowed to present this before a jury. And yet, in their pretrial filings, this  
11          representation contrary to the law is being presented by Defendants as a fact they  
12          intend to introduce.

13           **IV. CONCLUSION**

14           For the foregoing reasons, the Plaintiff respectfully request that this Court  
15          grant this Motion and issue an order the prohibiting introduction of evidence,  
16          testimony, or argument that anyone other than Plaintiff owns the registered  
17          trademarks at issue.

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1 Dated: July 14, 2025

2 **FOX ROTHSCHILD LLP**

3 /s/ Michael D. Murphy

4 Michael D. Murphy

5 Attorneys for Plaintiff and  
Counterclaim Defendant SHAKEY'S  
PIZZA ASIA VENTURES, INC. and  
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CORPORATION, PC  
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SPAVI INTERNATIONAL USA, INC.

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1                   **CERTIFICATE OF COMPLIANCE RE: WORD COUNT**

2                   The undersigned, counsel of record for Plaintiff Shakey's Pizza Asia  
3 Ventures, Inc., certifies that this brief contains 2290 words, which complies with  
4 the word limit of L.R. 11-6.1.

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**CERTIFICATE OF SERVICE**

The undersigned certifies that, on July 14, 2025, the foregoing document was electronically filed with the Clerk of the Court for the United States District Court, Central District of California, using the Court's ECF filing system. I further certify that all counsel for all parties to this action are registered CM/ECF user and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: July 14, 2025

FOX ROTHSCHILD LLP

*/s/ Michael D. Murphy*

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Michael D. Murphy  
Attorneys for Plaintiff and Counterclaim  
Defendant SHAKEY'S PIZZA ASIA  
VENTURES, INC. and Third Party  
Defendants CINCO CORPORATION,  
PC INTERNATIONAL PTE LTD., and  
SPAVI INTERNATIONAL USA, INC.